

HOUSE BILL No. 4167

January 31, 2013, Introduced by Rep. Santana and referred to the Committee on Regulatory Reform.

A bill to regulate amateur mixed martial arts; to create the mixed martial arts commission and establish its powers and duties; to provide certain powers and duties for certain state agencies and departments; to license and regulate promoters of amateur mixed martial arts contests and events; to assess certain fees and fines; to establish the amateur mixed martial arts fund and provide for the use of the money in the fund; to authorize the promulgation of rules; and to provide penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "amateur mixed martial arts regulatory act".

3 Sec. 3. As used in this act:

4 (a) "Amateur" means an individual mixed martial artist who is
5 not competing and has never competed in a mixed martial arts

1 contest for a prize or who is not competing and has never competed
2 with or against a professional in a mixed martial arts contest for
3 a prize.

4 (b) "Applicant" means an individual who applies for a license
5 under this act.

6 (c) "Commission" means the amateur mixed martial arts
7 commission created in section 7.

8 (d) "Contest" does not include a mixed martial arts
9 exhibition.

10 (e) "Contestant" means an individual who competes in an
11 amateur mixed martial arts contest or event.

12 (f) "Department" means the department of licensing and
13 regulatory affairs.

14 (g) "Director" means the director of the department or his or
15 her designee.

16 (h) "Event" means a program of 1 or more individual amateur
17 mixed martial arts contests.

18 (i) "Fund" means the amateur mixed martial arts fund created
19 in section 9.

20 (j) "License" means the document issued to an individual under
21 this act that enables him or her to engage in an activity that
22 would otherwise be prohibited under this act. The term includes an
23 initial license and any renewal license issued to an individual.

24 (k) "Medical professional" means any of the following:

25 (i) An individual who has a specialty certification as a nurse
26 practitioner under article 15 of the public health code, 1978 PA
27 368, MCL 333.16101 to 333.18838.

1 (ii) A physician's assistant licensed under article 15 of the
2 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

3 (iii) A physician as defined in section 17001 or 17501 of the
4 public health code, 1978 PA 368, MCL 333.17001 and 333.17501.

5 (l) "Mixed martial arts" means the general term that describes
6 the convergence of techniques from a variety of combative sports
7 disciplines. The term includes boxing, wrestling, judo, jujitsu,
8 kickboxing, and other combination of techniques from different
9 disciplines of the martial arts.

10 (m) "Mixed martial arts exhibition" means a performance or
11 demonstration of mixed martial arts that meets all of the
12 following:

13 (i) The performance or demonstration is held at a promoter's
14 gym, dojo, or similar training facility or at a training center.

15 (ii) Participants in the performance or demonstration do not
16 pay a fee to participate.

17 (iii) Spectators do not pay a fee to attend the performance or
18 demonstration.

19 (n) "Prize" means money or another form of compensation or
20 reward offered or given to a contestant. The term does not include
21 a watch, medal, article of jewelry, trophy, or ornament that is
22 suitably inscribed to show that it is given for participation in a
23 contest or event and costs \$200.00 or less.

24 (o) "Professional" means an individual who is competing or has
25 competed in the past for a prize in any sport regulated under the
26 Michigan unarmed combat regulatory act, 2004 PA 403, MCL 338.3601
27 to 338.3663.

(p) "Promoter" means an individual who produces or stages an amateur mixed martial arts contest or event. The term does not include the venue where a contest or event is held unless the venue contracts with the individual promoter to be a copromoter.

(q) "Proper medical clearance" means a certification by a medical professional that a contestant is fit to compete in a contest.

(r) "Training center" means an institution formed or operated principally to provide instruction in mixed martial arts.

Sec. 5. This act does not apply to any of the following:

(a) Amateur wrestling.

(b) Amateur martial arts sports or activities held by and at a public or private training center.

(c) A mixed martial arts exhibition.

(d) A contest or event conducted by or participated in exclusively by an agency of the United States government, by a school, college, or university, or by an organization composed exclusively of those entities, if each contestant is an amateur.

Sec. 7. (1) The amateur mixed martial arts commission is created as an advisory body within the department. All of the following apply to the commission:

(a) The commission shall establish appropriate disciplinary sanctions against licensees or other individuals who violate this act or rules promulgated under this act.

(b) The commission shall consist of the following:

(i) The director, serving as a nonvoting ex officio member of the commission.

1 (ii) Seven voting members appointed by the governor with the
2 advice and consent of the senate. The governor shall appoint 1
3 voting member who is a former contestant, physician, referee, or
4 judge, who has experience in the sport of amateur mixed martial
5 arts.

6 (c) A member appointed by the governor under subdivision (b)
7 serves at the pleasure of the governor. Except as provided in
8 subdivision (d) or (e), the term of office of a member appointed to
9 the commission is 4 years and an individual shall not be appointed
10 to or serve for more than 2 consecutive terms.

11 (d) The governor shall appoint the initial members of the
12 commission to serve for the following terms of office:

13 (i) Three of the members, 4 years.

14 (ii) Two of the members, 3 years.

15 (iii) Two of the members, 2 years.

16 (e) If an individual is appointed to fill a vacancy on the
17 commission that is the result of a member's resignation, death,
18 disability, or removal by the governor, he or she shall serve for
19 the balance of the term of the member replaced and may be
20 reappointed for not more than 2 additional 4-year terms.

21 (f) A majority of the members appointed and serving constitute
22 a quorum of the commission.

23 (g) A member of the commission shall not vote by proxy.

24 (h) The commission shall annually elect 1 of its members as
25 the chair of the commission.

26 (i) The commission shall meet as often as necessary to fulfill
27 its duties under this act.

18 Sec. 9. (1) Except as provided in section 7(1) concerning the
19 authority of the commission, the department is responsible for
20 administering and enforcing this act. All of the following apply to
21 the department's enforcement of this act:

22 (a) In enforcing this act, the department may initiate an
23 administrative or court action against an applicant or licensee or
24 take any other action against a licensee or his or her license that
25 is authorized under this act for a violation of this act.

26 (b) The department shall not take any action against an
27 applicant, licensee, or license under subdivision (a) more than 1

1 year after the occurrence of the violation of this act that is the
2 subject of the department's action.

3 (2) The amateur mixed martial arts fund is created in the
4 state treasury. All of the following apply to the fund:

5 (a) The department shall deposit into the fund all money
6 received from application fees, license fees, and administrative
7 fines imposed under this act.

8 (b) The state treasurer shall direct the investment of the
9 fund. The state treasurer shall credit to the fund interest and
10 earnings from fund investments.

11 (c) Money in the fund at the close of the fiscal year shall
12 remain in the fund and shall not lapse to the general fund.

13 (d) The department is the administrator of the fund for
14 auditing purposes.

15 (e) The department shall expend money from the fund, upon
16 appropriation, to administer and enforce this act and for its
17 expenditures under this act.

18 (3) The director may promulgate rules to administer and
19 enforce this act under the administrative procedures act of 1969,
20 1969 PA 306, MCL 24.201 to 24.328.

21 Sec. 11. (1) An individual shall not hold or conduct an
22 amateur mixed martial arts contest or event in this state or engage
23 in any other activity regulated under this act unless the
24 individual holds a promoter's license under this act or the
25 individual is exempt from licensure under this act.

26 (2) An individual seeking a license under this act shall
27 submit a license application to the department, in writing and

1 under oath, accompanied by a nonrefundable application processing
2 fee and an annual license fee. The application shall be made on a
3 form provided by the department and shall include the legal name,
4 street address, and telephone number of the applicant and any other
5 information reasonably required by the department.

6 (3) An annual license under this act shall expire on September
7 30 of the calendar year following the year the license was issued.

8 (4) Beginning on the effective date of this act, the
9 nonrefundable application fee required under this section is
10 \$100.00 and the annual license fee required under this section is
11 \$300.00. Beginning 1 year after the effective date of this act, the
12 director may biannually adjust the amount of the fees described in
13 this section based on the increase or decrease for the immediately
14 preceding 6-month period in the Detroit consumer price index as
15 reported by the United States department of labor.

16 Sec. 13. By filing an application for a license under this
17 act, an applicant does both of the following:

18 (a) Certifies his or her general suitability, character,
19 integrity, and ability to participate in, engage in, or be
20 associated with amateur mixed martial arts contests or events. The
21 burden of proof is on the applicant to establish that the applicant
22 possesses suitability, character, and integrity and is qualified to
23 promote and participate in mixed martial arts amateur contests or
24 events.

25 (b) Accepts the risk of adverse public notice, embarrassment,
26 criticism, financial loss, or other action with respect to his or
27 her application and expressly waives any claim for damages as a

1 result of any adverse public notice, embarrassment, criticism,
2 financial loss, or other action.

3 Sec. 15. (1) An applicant is ineligible to receive a
4 promoter's license under this act if he or she meets any of the
5 following:

6 (a) He or she was convicted of a felony that involved
7 violence, theft, fraud, or an element of financial dishonesty under
8 the laws of this state or any other jurisdiction in the United
9 States in the 5-year period preceding the application.

10 (b) He or she has an unsatisfied tax lien in the amount of at
11 least \$5,000.00 under any federal, state, or local law at the time
12 of the application.

13 (c) He or she submitted an application for a license under
14 this act that contained false information.

15 (2) If the department does not issue an initial or renewal
16 license to an individual under this act, he or she may petition the
17 department and the commission for a review. The petition must be in
18 writing and set forth the reasons the petitioner believes that the
19 department should issue a license to him or her. The department may
20 issue a license to the petitioner if, based on a review of the
21 qualifications of the individual who submitted the petition, the
22 department and the commission determine that the individual could
23 perform as a promoter with competence.

24 Sec. 17. (1) An individual who fails to renew a license on or
25 before its expiration date shall not hold or conduct an amateur
26 mixed martial arts contest or event or advertise, operate, or use
27 the title "promoter" or "amateur promoter" after the expiration

1 date printed on the license.

2 (2) An individual who fails to renew a license on or before
3 its expiration date is permitted to renew the license within 60
4 days after the expiration date by meeting all requirements for
5 licensure under this act, paying the required license fee, and
6 paying a late renewal fee in the amount of \$30.00. After that 60-
7 day period, the individual may only obtain a license under this act
8 by complying with the requirements of section 11.

9 (3) Except as provided in subsection (4) or otherwise provided
10 in this act, an individual may seek reinstatement of a license
11 under this act by filing an application on a form provided by the
12 department, paying the application processing fee and annual
13 license fee, and filing a petition with the department that states
14 the reasons reinstatement is appropriate and includes evidence that
15 the individual can and is likely to serve the public in the
16 regulated activity with competence and in conformance with all
17 other requirements prescribed by law, rule, or an order of the
18 department.

19 (4) If a license is revoked or suspended by the department
20 under this act, the department may reinstate the revoked license or
21 lift a suspension if it receives an application for reinstatement
22 and is paid any administrative fine assessed by the commission.

23 Sec. 19. (1) In addition to the fees described in section 11,
24 a licensee shall pay a regulatory and enforcement fee of \$200.00
25 for each amateur mixed martial arts event presented by the
26 promoter. The department shall deposit regulatory and enforcement
27 fees it receives under this section in the fund. By December 1 of

1 each year, the department shall report to the legislature the
2 amount of revenue generated by the regulatory and enforcement fee
3 in the preceding state fiscal year.

4 (2) A licensee who presents an amateur mixed martial arts
5 event in this state must comply with all of the following:

6 (a) At least 5 business days before the event, pay the
7 regulatory and enforcement fee described in subsection (1) and
8 provide notice to the department that describes the event. The
9 department shall prescribe the form and contents of the notice
10 described in this subdivision.

11 (b) Pay all obligations related to the normal course of
12 promoting an amateur mixed martial arts event, including, but not
13 limited to, venue rent and judge, medical professional, referee,
14 and timekeeper fees.

15 (c) Maintain records of the amateur mixed martial arts event
16 for at least 1 year after the date of the scheduled event and make
17 those records available to the department or law enforcement
18 officials on request.

19 (3) A licensee presenting an amateur mixed martial arts event
20 in this state shall ensure that all of the following are met in the
21 conduct of the event:

22 (a) Except as provided in subdivision (b), each individual
23 contest consists of not more than 3 rounds, of not more than 3
24 minutes' duration, with at least a 1-minute rest period between
25 each round.

26 (b) Each individual national or international championship
27 contest consists of not more than 5 rounds, of not more than 5

1 minutes' duration, with at least a 1-minute rest period between
2 each round.

3 (c) Each contestant wears gloves, supplied by the promoter,
4 that weigh at least 4 ounces and not more than 8 ounces.

5 (d) The referee examines the gloves worn by each contestant
6 before and during a contest. If the referee finds that a glove is
7 misplaced, lumpy, broken, roughed, or otherwise unfit, the
8 contestant must change the glove before the start of the contest.

9 (e) Before a contestant participates in a contest, he or she
10 is weighed and placed in the appropriate weight class. As used in
11 this subdivision and subdivision (f), "weight class" means 1 of the
12 following:

13 (i) Flyweight, if he or she weighs 125.9 pounds or less.

14 (ii) Bantamweight, if he or she weighs 126 pounds or more and
15 not more than 135 pounds.

16 (iii) Featherweight, if he or she weighs 135.1 pounds or more
17 and not more than 145 pounds.

18 (iv) Lightweight, if he or she weighs 145.1 pounds or more and
19 not more than 155 pounds.

20 (v) Welterweight, if he or she weighs 155.1 pounds or more and
21 not more than 170 pounds.

22 (vi) Middleweight, if he or she weighs 170.1 pounds or more and
23 not more than 185 pounds.

24 (vii) Light heavyweight, if he or she weighs 185.1 pounds or
25 more and not more than 205 pounds.

26 (viii) Heavyweight, if he or she weighs 205.1 pounds or more and
27 not more than 265 pounds.

1 (ix) Super heavyweight, if he or she weighs more than 265
2 pounds.

3 (f) a contestant only participates in a contest with another
4 contestant who meets 1 of the following:

5 (i) The second contestant is in the same weight class.

6 (ii) The second contestant is in the next higher weight class,
7 if the first contestant agrees to participate with that heavier
8 contestant.

9 (g) Professional mixed martial artists who are subject to the
10 Michigan unarmed combat regulatory act, 2004 PA 403, MCL 338.3601
11 to 338.3663, do not participate as contestants in a contest.

12 (h) A contestant does not participate in a contest unless the
13 contestant has submitted medical certification of negative results
14 for hepatitis B and C and HIV tests conducted within the 180-day
15 period preceding the scheduled contest or event.

16 (i) A female contestant does not participate in a contest
17 unless the contestant has submitted the results of a pregnancy test
18 performed on the contestant within the 7-day period preceding the
19 event and the results of that pregnancy test are negative.

20 (j) An individual is not allowed to participate as a
21 contestant without proper medical clearance.

22 (k) The event does not take place or continue without a
23 medical professional at the event.

24 (I) The event does not take place or continue without a trained
25 and competent referee.

26 (m) An individual is not allowed to participate in a contest
27 if there is any reason to suspect that he or she is impaired. As

1 used in this subsection:

2 (i) "Impaired" means the inability or immediately impending
3 inability of an individual to safely participate in an amateur
4 mixed martial arts contest or event due to his or her substance
5 abuse, chemical dependency, or use of drugs or alcohol that does
6 not constitute substance abuse or chemical dependency.

7 (ii) "Chemical dependency" means that term as defined in
8 section 16106a of the public health code, 1978 PA 368, MCL
9 333.16106a.

10 (iii) "Substance abuse" means that term as defined in section
11 16106a of the public health code, 1978 PA 368, MCL 333.16106a.

12 (n) A professional is not allowed to participate as a
13 contestant in the event.

14 (o) If an individual lost a mixed martial arts contest or
15 exhibition by a technical knockout in the 30-day period preceding
16 the event, he or she is not allowed to participate as a contestant
17 unless he or she submits the results of a physical examination to
18 the promoter that indicate that he or she is fit to compete.

19 (p) The medical professional at the event determines the
20 status of a contestant who is knocked out in an amateur mixed
21 martial arts contest or whose fight is stopped by the referee
22 because he or she received hard blows to the head that made him or
23 her defenseless or incapable of continuing immediately after the
24 knockout or stoppage. The medical professional may recommend post-
25 fight neurological examinations, which may include performing
26 computerized axial tomography (CAT) scans or magnetic resonance
27 imaging (MRI) on the contestant immediately after the contestant

1 leaves the event venue.

2 (q) A contestant described in subdivision (p) does not compete
3 in another contest without proper medical clearance.

4 (r) If a medical professional recommended further neurological
5 examinations of a contestant under subdivision (p), the contestant
6 does not compete in another contest until the promoter receives
7 copies of the examination reports and the reports demonstrate that
8 the contestant is fit to compete.

9 (s) A contestant who sustains a severe injury or knockout in a
10 contest is examined by a medical professional and is not permitted
11 to compete in another contest until a medical professional
12 certifies that the contestant is fully recovered.

13 (t) An individual who meets all of the following does not
14 participate as a contestant:

15 (i) He or she participated in a contest or exhibition in the
16 60-day period preceding the event.

17 (ii) In the contest or exhibition described in subparagraph (i),
18 he or she was knocked out or the contest or exhibition was stopped
19 because he or she received excessive hard blows to the head.

20 (u) An individual who meets all of the following does not
21 participate as a contestant:

22 (i) He or she participated in multiple contests or exhibitions
23 before the event.

24 (ii) In any 90-day period, he or she was knocked out twice or 2
25 of his or her contests or exhibitions were stopped because he or
26 she received excessive hard blows to the head.

27 (iii) The second knockout or stoppage described in subparagraph

1 (ii) occurred in the 120-day period preceding the event.

2 (v) An individual who meets all of the following does not
3 participate as a contestant:

4 (i) He or she participated in multiple contests or exhibitions
5 before the event.

6 (ii) In any 12-month period, he or she was knocked out in 3
7 consecutive contests or exhibitions or 3 consecutive contests or
8 exhibitions were stopped because he or she received excessive hard
9 blows to the head.

10 (iii) The third knockout or stoppage described in subparagraph
11 (ii) occurred in the 1-year period preceding the event.

12 (w) If an individual was not allowed to participate as a
13 contestant in an earlier event because he or she met the
14 requirements of subdivision (t), (u), or (v) at the time of that
15 earlier event, he or she does not participate as a contestant
16 unless he or she provides the promoter with proper medical
17 clearance.

18 (x) Each contestant is insured for at least \$10,000.00 for any
19 medical and hospital expenses, including deductibles paid by the
20 contestant, to cover injuries sustained in a contest and for at
21 least \$10,000.00 to be paid in accordance with the statutes of
22 descent and distribution of individual property if the contestant
23 dies as a result of injuries received in a contest.

24 Sec. 21. (1) An individual who does any of the following is
25 subject to the remedies and penalties described in this section:

26 (a) Violates this act or a rule promulgated or order issued
27 under this act.

(b) Practices fraud or deceit in obtaining a license.

(c) Practices fraud, deceit, or dishonesty in performing his or her duties as a promoter.

(d) Practices false advertising.

(e) Fails to comply with a subpoena issued under this act.

(f) Fails to provide requested documents or records to the
tment.

(g) Violates or fails to comply with a stipulation or
ement agreement with or a final order issued by the department
mission.

(h) Aids or abets another individual in promoting an amateur martial arts contest without a license.

(i) Fails to pay any obligation related to the normal course of promoting an amateur mixed martial arts event, including, but limited to, venue rent or judge, medical professional, referee, and keeper fees.

(j) Enters into a contract for an amateur mixed martial arts
st or event in bad faith.

(k) Gambles on the outcome of an amateur mixed martial arts fight or event of which he or she is a promoter.

(l) Fails to file current address information with the
tment.

(m) Assaults another licensee, a commission member, or an employee of the department.

(n) Tampers with or coerces another promoter's contestants.

(2) If a licensee violates this act or a rule or order

lgated or issued under this act, the department may take 1 or

1 more of the following actions:

- 2 (a) Place a limitation on his or her license.
- 3 (b) Suspend his or her license.
- 4 (c) Deny him or her a license or renewal of a license.
- 5 (d) Revoke his or her license.
- 6 (e) Assess an administrative fine under section 35.
- 7 (f) Censure the licensee.
- 8 (g) Require that he or she pay restitution, based on proofs
- 9 submitted to and findings made by the hearings examiner after a
- 10 contested case. If restitution is required and the individual is a
- 11 licensee, the department may suspend his or her license until the
- 12 restitution is paid.

13 (3) An individual who violates this act is guilty of a
14 misdemeanor punishable by imprisonment for not more than 93 days or
15 a fine of not more than \$500.00, or both.

16 (4) An individual who violates this act a second or any
17 subsequent time is guilty of a misdemeanor punishable by
18 imprisonment for not more than 1 year or a fine of not more than
19 \$1,000.00, or both.

20 (5) An individual who knowingly allows a professional to
21 participate as a contestant in an amateur mixed martial arts
22 contest with an amateur is guilty of a felony punishable by
23 imprisonment for not more than 3 years or a fine of \$10,000.00 per
24 incident, or both.

25 (6) The department may bring an injunctive action in a court
26 of competent jurisdiction to restrain or prevent an individual from
27 violating this act. If successful in obtaining injunctive relief,

1 the department is entitled to its costs and reasonable attorney
2 fees.

3 (7) The department may conduct an investigation to enforce
4 this act. An individual who violates this act is subject to the
5 penalties and remedies described in this section.

6 (8) The penalties and remedies under this section are
7 independent and cumulative. The imposition of a remedy or penalty
8 against an individual under this section does not bar the pursuit
9 of any lawful remedy by that individual or the pursuit of a lawful
10 remedy by any other person against that individual.

11 Sec. 23. (1) Any person may file a written complaint with the
12 department alleging that an individual has violated this act or a
13 rule promulgated or an order issued under this act.

14 (2) If the department receives a complaint described in
15 subsection (1), the department immediately shall begin and pursue
16 an investigation of the allegations of the complaint. The
17 department shall acknowledge the complaint in writing within 15
18 days after it receives the complaint.

19 (3) For purposes of its investigation under this section, the
20 department may administer oaths; take testimony under oath; require
21 the appearance and testimony of witnesses, including the production
22 of books, records, or other documents; or request that the attorney
23 general petition a court of competent jurisdiction to issue a
24 subpoena requiring a person to appear before the department and be
25 examined with reference to any matter within the scope of the
26 investigation and to produce books, papers, or documents pertaining
27 to the investigation.

- 15 (a) Issuing a formal complaint.
- 16 (b) Obtaining a cease and desist order.
- 17 (c) Issuing an order of summary suspension under section 25.
- 18 (d) Seeking injunctive relief under section 21(6).

25 Sec. 25. (1) After it conducts an investigation under section
26 23, the department may issue an order summarily suspending a
27 license based on an affidavit by a person familiar with the facts

1 set forth in the affidavit or, if appropriate, based on an
2 affidavit on information and belief that an imminent threat to the
3 integrity of the sport of amateur mixed martial arts, the public
4 interest, or the welfare and safety of a contestant exists.

5 (2) If a promoter's license is summarily suspended under this
6 section, the promoter may petition the department to dissolve the
7 suspension order. After receiving a petition to dissolve a
8 suspension order, the department shall immediately schedule a
9 hearing to decide whether to grant or deny the requested relief.

10 (3) After the hearing concerning a petition to dissolve a
11 suspension order under subsection (2), the administrative law
12 hearings examiner shall dissolve the summary suspension order
13 unless sufficient evidence is presented that an imminent threat to
14 the integrity of the sport, the public interest, or the welfare and
15 safety of a contestant exists that requires emergency action and
16 continuation of the department's summary suspension order.

17 (4) The record created at a hearing to dissolve a summary
18 suspension order is considered part of the record of the complaint
19 at any subsequent hearing in a contested case.

20 Sec. 27. (1) If the department conducts an investigation under
21 section 23, the department after the investigation may order a
22 person to cease and desist violating this act or a rule promulgated
23 or order issued under this act.

24 (2) A person ordered to cease and desist under subsection (1)
25 may request a hearing on that order by filing a written request for
26 a hearing with the department within 30 days after the effective
27 date of the order.

6 Sec. 29. (1) A summary suspension order under section 25, a
7 cease and desist order under section 27, or injunctive relief
8 issued or granted in an action under section 21(6) concerning a
9 license is in addition to and not in place of an informal
10 conference; criminal prosecution; proceeding to impose a remedy
11 described in section 21(2); or any other action authorized under
12 this act.

20 (a) An opportunity to meet with the department to negotiate a
21 settlement of the matter.

22 (b) If the respondent is a licensee under this act, an
23 opportunity to demonstrate compliance before the department holds a
24 contested case hearing.

25 (c) An opportunity to proceed to a contested case hearing.

26 (3) A respondent who is served with a formal complaint under
27 this section may select, within 15 days after receiving the notice,

1 1 of the options described in subsection (2). If the respondent
2 does not notify the department of the selection of 1 of those
3 options within the time period described in this subsection, the
4 department shall proceed with a contested case hearing as described
5 in subsection (2)(c).

6 (4) At the discretion of the department, a member of the
7 commission may attend an informal conference described in
8 subsection (2)(a). The conference may result in a settlement,
9 consent order, waiver, default, or other method of settlement
10 agreed on by the parties and the department. A settlement may
11 include any remedy under section 21(2) or any other remedy
12 authorized under this act. The commission may reject a settlement
13 and require a contested case hearing.

14 (5) An employee of the department may represent the department
15 in any contested case hearing.

16 (6) This section does not prevent a person against whom a
17 complaint is filed from showing compliance with this act or a rule
18 promulgated or order issued under this act.

19 (7) The department or the department of the attorney general
20 may petition a court of competent jurisdiction to issue a subpoena
21 to require the person subpoenaed to appear or testify or produce
22 relevant documentary material for examination at a proceeding.

23 Sec. 31. (1) At the conclusion of a contested case hearing
24 conducted under section 29, the administrative law hearings
25 examiner shall submit a hearing report that includes findings of
26 fact and conclusions of law to the department, the department of
27 attorney general, and the commission. The examiner may recommend in

1 the hearing report the assessment of a penalty or remedy under this
2 act.

3 (2) An administrative law hearings examiner shall submit a
4 copy of a hearing report prepared under subsection (1) to the
5 complainant and to the respondent.

6 (3) Within 60 days after it receives an administrative law
7 hearings examiner's hearing report, the commission shall meet and
8 determine what penalty or remedy is appropriate. The commission
9 shall make its determination based on the administrative law
10 hearings examiner's report. The examiner shall make a transcript of
11 a hearing or a portion of the transcript available to the
12 commission on request. If a transcript or a portion of the
13 transcript is requested, the commission shall make its
14 determination of the penalty or remedy to assess under this act at
15 a meeting held within 60 days after it receives the transcript or
16 portion of the transcript.

17 (4) If the commission does not determine which penalty or
18 remedy to assess within the time period described in subsection
19 (3), the director may determine the appropriate remedy or penalty
20 and issue a final order.

21 (5) A member of the commission who has participated in an
22 investigation or administrative hearing on a complaint filed with
23 the department or who has attended an informal conference shall not
24 participate in making a final determination in a proceeding on that
25 complaint.

26 Sec. 33. (1) If a licensee violates this act or a rule or
27 order promulgated or issued under this act, the department may

1 impose an administrative fine on the licensee, in an amount of not
2 more than \$10,000.00 per violation. The commission may impose the
3 administrative fine in addition to, or in lieu of, any other
4 penalty or remedy under this act, including, but not limited to,
5 the penalties and remedies described in section 21, based on proofs
6 submitted to and findings made by the hearings examiner after a
7 contested case.

8 (2) If the department imposes an administrative fine under
9 this section, the department may also recover the costs of the
10 proceeding, including investigative costs, court costs, and
11 reasonable attorney fees. The department or the attorney general
12 may bring an action in a court of competent jurisdiction to recover
13 any administrative fines, investigative and other allowable costs,
14 court costs, and reasonable attorney fees. The filing of an action
15 to recover administrative fines and costs does not bar the
16 imposition of other penalty or remedy under this act.

17 Enacting section 1. This act takes effect 90 days after the
18 date this act is enacted into law.